

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED ORIGINAL

AUG 10 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

DOCKET FILE COPY ORIGINAL)

International Settlement Rates)

IB Docket No. 96-261)

To The Commission:

**OPPOSITION TO MOTION FOR EXTENSION OF
TIME TO FILE COMMENTS AND REPLY COMMENTS**

Atlantic Tele-Network, Inc. ("ATN"), pursuant to 47 C.F.R. §§ 1.45-1.46, hereby opposes the motion of Caribbean Wireless Telecom, LLC ("CWT"), for an extension of sixty days to file comments and reply comments in the above-captioned proceeding.¹ The Federal Communications Commission ("Commission") has repeatedly emphasized that "extensions of time are not routinely granted."² CWT has not provided even one valid reason for postponing the comment and reply comment dates in this proceeding. Accordingly, ATN respectfully requests the Commission to deny the motion of CWT to extend the dates for filing comments and reply comments.

As an initial matter, CWT is wrong when it asserts that "no prejudice will result from this extension, as the lower benchmark settlement rates are not scheduled to take effect on the U.S.-

¹ See Motion for Extension of Time to File Comments and Reply Comments of Caribbean Wireless Telecom, LLC, IB Docket No. 96-261 (filed August 6, 2001) ("CWT Motion"). See also Comments of Caribbean Telecommunications Limited in Support of Motion for Extension of Time, IB Docket No. 96-261 (filed August 6, 2001) ("CLT Comments") (supporting Motion for Extension of Time to File Comments and Reply Comments of Caribbean Wireless Telecom, LLC).

² Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, DA 01-1199, ¶ 3 (rel. May 11, 2001), citing 47 C.F.R. §1.46(a) ("It is the policy of the Commission that extensions of time shall not be routinely granted.").

No. of Copies rec'd
List ABCDE

054

Guyana route until January 1, 2002.”³ If CWT’s motion for a 60 day extension were granted, then the comment and reply comment cycle in this proceeding would not close until October 29, 2001. This would leave less than 42 business days during the middle of the holiday season for (1) the Commission to consider fully the comments and reply comments filed in this proceeding, (2) the Commission to request, if necessary, more information from ATN or any of the commenting parties, (3) the party from which the Commission has requested information to respond, (4) the Commission to reach, prepare and issue a final decision on ATN’s petition, and (5) ATN to adjust its operations in reaction to the Commission’s final decision. ATN respectfully submits that it is already a tight schedule under the current filing deadlines, and that it most likely would not be possible to conclude this proceeding in a timely fashion before January 1, 2002 if the comment cycle were delayed as requested by CWT. Accordingly, grant of CWT’s motion would prejudice ATN, and denial of CWT’s motion would serve the public interest by allowing the prompt determination of the issues raised in ATN’s waiver petition.

CWT does not offer even one cognizable basis for an extension of time. CWT claims that an extension of time is necessary because “[a]nother interested party, i-NET, will also be submitting comments . . .”,⁴ but CWT does not explain why the alleged intent of another party to submit comments in this proceeding justifies an extension of time. Moreover, i-Net did not sign CWT’s motion and has not filed comments in support of CWT’s motion. Thus, it is not clear that CWT has standing to represent i-Net in this proceeding, or that CWT’s motion accurately represents i-Net’s position.

³ CWT Motion at 4. *See also* Comments of CTL at 2 (claiming that “there is no risk of prejudice to any party from the extension of time.”).

⁴ CWT Motion at 1.

CWT similarly speculates that “additional parties, including Caribbean Telecommunications, Ltd., will submit comments if additional time is granted by the Commission.”⁵ Apart from Caribbean Telecommunications Limited (“CTL”), CWT has not identified any of the parties that allegedly will file only if the Commission grants an extension, or provided a reason why they will not file unless an extension is granted. Although CTL filed comments in support of CWT’s motion, CTL bases its support solely on its claim that it needs more time to explore the factual aspects of ATN’s petition.⁶ Assuming *arguendo* that CTL’s claim were true, which ATN disputes, a party’s undifferentiated desire to have more time to explore factual issues is patently insufficient to establish good cause to extend the comment and reply comment dates in this proceeding, as explained in more detail below.⁷

CWT alleges that it “requires a minimum of sixty (60) days to research and prepare its comments to the Commission.”⁸ CWT provides two explanations for this allegation. First, CWT claims that it must review unspecified documentation “spanning more than a decade of telecommunications infrastructure development in Guyana,”⁹ much of which allegedly is “stored at the Guyana PUC to which access is difficult and where record-copying facilities are limited.”¹⁰ Second, CWT claims that it “needs adequate time to review the record of GT&T’s investment in the

⁵ *Id.*

⁶ CTL Comments at 1-2.

⁷ For example, the Commission has frequently denied requests for extensions of time in proceedings that involve extensive and complicated factual allegations that require a significant amount of time to address fully. *See, e.g.*, Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, CC Docket No. 86-111, 1986 FCC LEXIS 2967 (rel. July 29, 1986) (denying motion to extend reply comment date based on claim that excessive amount of material requires additional time for proper analysis and that the complexity of the material requires exhaustive review by economists and legal staff).

⁸ CWT Motion at 2.

⁹ *Id.*

¹⁰ *Id.*

telecommunications network and infrastructure in Guyana” because it plans to dispute the fact that ATN currently uses, and will continue to use, settlement revenues to fund network expansion and to make infrastructure investment.¹¹

CWT does not indicate that it has identified, or is aware of, any specific documents that will support its desire to oppose ATN’s petition. Nor has CWT indicated whether it has attempted to review these documents but was unsuccessful due to a specific obstacle that cannot be overcome before the current filing deadline (*e.g.*, CWT was denied access to the documents by the Guyana PUC). Indeed, the motion strongly suggests that CWT has **not identified any** specific documents that it must review: CWT claims that the extension is necessary to allow interested parties “to determine **whether** the facts underlying ATN’s request are accurate.”¹² CWT’s failure to cite **any** specific facts in its motion – or to provide a sworn affidavit from a person having personal knowledge of those facts – suggests that CWT does not have any factual basis for its disagreement with the facts and statistics that ATN cites in its petition. In effect, CWT has decided that it wants to oppose ATN’s petition even though it has no factual basis for doing so, and it wants more time from the Commission to see if it can come up with something.

A long line of FCC cases hold that generic allegations that additional time is needed to review materials and prepare comments and reply comments are insufficient to justify an extension.¹³

¹¹ *Id.*

¹² *Id.* at 3 (emphasis added).

¹³ *See, e.g.*, Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, CC Docket No. 86-111, 1986 FCC LEXIS 2967 (rel. July 29, 1986) (denying motion to extend reply comment date based on claim that excessive amount of material requires additional time for proper analysis and that the complexity of the material requires exhaustive review by economists and legal staff); Amendment of Section 73.202(b), MM Docket No. 86-252 RM-5099, 1986 FCC LEXIS 2688 (rel. Sept. 18, 1986) (denying motion to extend due to failure to demonstrate that the petitioning party lacked requisite notice of the due date or is unavoidably prevented from meeting it).

In fact, the Commission has frequently denied requests for extensions of time to file comments and reply comments even when the current deadlines “require a major effort of parties that wish to carefully evaluate” relevant documents.¹⁴ CWT has failed to demonstrate that it cannot review the materials necessary to file comments and reply comments under the current deadlines, or even that it would be a major effort to do so. CWT’s unsupported allegations that the sworn affidavit of Cornelius Prior, Jr. is not accurate cannot be considered sufficient to justify an extension of the comment and reply comment filing deadlines.¹⁵ The Commission has never granted a motion to extend comment and reply comment dates merely to allow a party to begin a fishing expedition, and it should not do so now.¹⁶

CWT also argues that an extension is appropriate because Appendix A is not available on the FCC’s website.¹⁷ ATN notes that the Commission’s Public Notice provides specific

¹⁴ See, e.g., Amendment of the Commission’s Rules to Establish New Personal Communications Services, 7 FCC Rcd 3872, ¶ 3 (1992) (denying GTE’s request for a 30-day extension despite concurring with GTE’s claimed “need to carefully evaluate more than 4,000 pages of technically complex material” that “only a limited number of persons are qualified to assess”).

¹⁵ Cf. Kola, Inc., 11 FCC Rcd 14297, ¶ 15 (1996) (explaining long-standing Commission policy that conclusory allegations unsupported by specific facts are insufficient to satisfy Commission’s procedural requirements for establishing an issue of fact that must be resolved on the merits in an application proceeding).

¹⁶ The comment and reply comment deadlines are currently scheduled for August 14 and August 28, respectively. See Petition for Waiver of the Benchmark Settlement Rate for Guyana, Public Notice, DA 01-1714, IB Docket No. 96-261 (rel. July 17, 2001). The CWT Motion incorrectly lists the reply date as August 21, 2001. CWT Motion at 1. Thus, interested parties have a total of 42 days to comment on ATN’s petition under the current schedule. Moreover, interested parties can, if necessary, submit subsequently discovered information to the Commission after closing of the comment cycle in late-filed comments pursuant to an individual waiver request as discussed in Section 1.46(b) of the Commission’s rules, 47 C.F.R. § 1.46(b). See, e.g., Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, 16 FCC Rcd 5268 (rel. March 5, 2001) (denying motion to extend comment and reply comment dates and discussing ability of parties to file comments late pursuant to an individual waiver request as discussed in Section 1.46(b)).

¹⁷ CWT Motion at 4.

instructions on how interested parties can obtain copies of ATN's petition, including Appendix A.¹⁸

Specifically, the Public Notice provides in relevant part that:

Copies of the petition and any subsequently filed documents in this matter may be obtained from International Transcription, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800. The petition and any subsequently filed documents are also available for public inspection and copying during normal business hours at the FCC Office of Public Affairs Reference and Information Center, located in room CY-A257 at the Portals 2 building, 445 12th Street, S.W., Washington, D.C. 20554. The center's phone number is (202) 418-0270.¹⁹

Accordingly, the Commission has provided every interested party with specific instructions on how to obtain a copy of ATN's petition, including Appendix A, on a timely basis. Like any other interested party, CWT could have called ITS to request a copy of Appendix A.²⁰ In any event, ATN shipped a copy of Appendix A to CWT's counsel by overnight courier immediately upon receiving CWT's motion.²¹

In sum, CWT has failed to allege facts sufficient to establish good cause to extend the comment and reply comment dates in this proceeding. Moreover, a 60-day delay in the comment cycle would prejudice ATN and make it very difficult, if not impossible, to conclude this proceeding by January 1, 2002. By contrast, no parties will be prejudiced by denial of CWT's motion, because interested parties can continue to research the facts that ATN cites in its petition beyond the reply comment deadline of August 28, 2001 and, if necessary, submit relevant and material information

¹⁸ See Petition for Waiver of the Benchmark Settlement Rate for Guyana, Public Notice, DA 01-1714, IB Docket No. 96-261, 2 (rel. July 17, 2001).

¹⁹ *Id.*

²⁰ ATN also notes that CWT's counsel, Frederik & Byron, P.A., has offices in Washington, D.C., and thus presumably could have visited the FCC Office of Public Affairs Reference and Information Center at any time to obtain a copy of Appendix A.

²¹ ATN's overnight courier has confirmed that CWT's counsel received a copy of Appendix A on August 8, 2001 at 9:09 a.m.

after that time pursuant to an individual waiver request as discussed in Section 1.46(b) of the Commission's rules.²²

CONCLUSION

For the foregoing reasons, ATN urges the Commission to deny the motion of CWT to extend the dates for filing comments and reply comments.

Respectfully submitted,

ATLANTIC TELE-NETWORK, INC.

By: 

Robert J. Aamoth

Todd D. Daubert

KELLEY DRYE & WARREN, LLP

1200 19th Street, N.W.

Washington, DC 20036

(202) 955-9600

Its Attorneys

August 10, 2001

²² 47 C.F.R. § 1.46(b). *See, e.g.*, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, 16 FCC Rcd 5268 (rel. March 5, 2001) (denying motion to extend comment and reply comment dates and discussing ability of parties to file comments late pursuant to an individual waiver request as discussed in Section 1.46(b)).

CERTIFICATE OF SERVICE

I, Michelle L. Arbaugh, hereby certify that on this 10th day of August, 2001, I served copies of the foregoing via hand-delivery or regular mail(*) upon the following:

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Rebecca Arbogast, Chief
Telecommunications Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Kathryn O'Brien, Deputy Chief
Telecommunications Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Kenneth Stanley
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

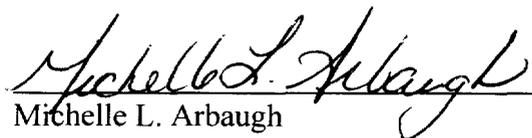
James Roberts
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Ann Marie Ladd*
Fredrikson & Byron, P.A.
1100 International Centre
900 Second Avenue South
Minneapolis, MN 55402-3397

Lloyd Soobrian*
Chief Executive Office
Caribbean Telecom, Ltd.
48 Good Luck St.
Edison, NJ 08820

Jackie Ruff
International Bureau
Federal Communication Commission
445 12th Street, SW
Washington, D.C. 20554

International Transcription Service
445 12th Street, SW
Suite CY-B400
Washington, D.C. 20554


Michelle L. Arbaugh